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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,792	05/13/2002	Philippe Schottland	GEPL.P-051	1633

43247 7590 06/15/2006

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EXAMINER	
PATTERSON, MARC A	

ART UNIT	PAPER NUMBER
1772	

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/063,792	SCHOTTLAND, PHILIPPE	
	Examiner	Art Unit	
	Marc A. Patterson	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23,28-41 and 78-80* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23,28-41 and 78-80* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *5/19/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 103(a) rejection of Claims 1 – 3, 5 – 6, 8 – 10, 13 – 16, 18 – 19, 21 – 23, 30 – 33, 35 – 36 and 38 – 39 as being unpatentable over Kozak et al (U.S. Patent No. 5,660,497) in view of Cornell et al (U.S. Patent No. 3,873,390) and Spohr (European Patent No. 1,059,237), of record on page 2 of the previous Action, are withdrawn.

NEW REJECTIONS

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1 – 3, 5 – 6, 8 – 10, 13 – 16, 18 – 19, 21 – 23, 30 – 33, 35 – 36 and 38 – 39 arerejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al (U.S. Patent No. 3,417,175) in view of Pollard (U.S. Patent No. 3,728,143).

With regard to Claims 1, 14 – 15, 31 and 78 – 80, Brown et al disclose a bottle comprising an annular portion comprising a molded body (a bottle which is a molded article and has a curved surface; column 10, lines 25 – 33) formed from as plastic having an index of refraction of at least 1.4 which is polycarbonate (column 9, line 30) wherein the annular portion has a graphic image formed as protrusions on the surface of the body (relief decoration; column 10, line 50). Brown et al fail to disclose a bottle comprising a photoluminescent material to provide a visual effect in the shape of the graphic image.

Pollard teaches a polycarbonate (column 8, line 48) comprising a photoluminescent material (column 6, lines 53 – 55) for the purpose of obtaining a material that is colored without high shear (column 9, line 53). One of ordinary skill in the art would therefore have recognized the advantage of providing for the material of Pollard in Brown et al, which comprises polycarbonate, depending on the desired coloring of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a photoluminescent material in Brown et al in order to obtain a material that is colored without high shear as taught by Pollard; the material would therefore provide a visual effect in the shape of the graphic image.

With regard to Claims 2, 9, 22, 30 and 32, the material disclosed by Pollard is fluorescent (column 6, lines 53 – 55), therefore including xanthene.

With regard to Claims 3, 5 – 6, 8, 10, 16, 18 – 19, 21, 23, 33, 35 – 36 and 38, Pollard fails to disclose a pigment having a concentration of 0.1% to 0.005% and 0.0001 to 0.0003% by weight and a pigment providing a red or blue visual effect and a photoluminescent material comprising a material of nanosize. However, Kozak et al disclose a fluorescent pigment having a concentration of at least a fraction of 1% fluorescent pigment because the material comprises fluorescent dye, and a finite particle size. Therefore one of ordinary skill in the art would have recognized the utility of varying the concentration and color and particle size of the pigment to obtain a desired amount and particle size. Therefore, the amount and particle size would be readily determined through routine optimization of concentration and color and particle size of

the pigment by one having ordinary skill in the art depending on the desired end use of the product.

With regard to Claims 13 and 39, the images disclosed by Brown et al are formed from protrusions having a height of 1 to 11 mils (column 10, lines 70 – 73).

With regard to Claims 28 – 29, Brown et al fail to disclose a bottle having a bottom portion, sealable top portion and integrally molded handle. However, Brown et al disclose a bottle having an annular portion as discussed above. It would have been an obvious matter of design choice to have provided a bottom portion, sealable top portion and integrally molded handle in Brown et al, since such a modification would have involved a mere change in shape. A change in shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

4. Claims 4, 7, 17, 20, 34, 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al (U.S. Patent No. 3,417,175) in view of Pollard (U.S. Patent No. 3,728,143) and further in view of Madalo (U.S. Patent No. 3,573,472).

Brown et al and Pollard disclose a bottle comprising a fluorescent dye as discussed above. With regard to Claims 4, 7, 17, 20, 34, 37, Brown et al and Pollard fail to disclose a fluorescent dye which provides a blue or red visual effect.

Madalo teaches that it is well known in the art to select the color of a fluorescent dye depending on the suitability of the fluorescent dye for viewing in a desired color of visible light (when phtoluminescent materials are used for symbols, reading symbols

under visible light is, of course, simply effected by adding a suitable color, therefore dye; column 3, lines 39 – 46) in the making of a label (column 4, lines 6 – 10) for the purpose of obtaining a label that is highly efficient (column 3, lines 49 – 52). One of ordinary skill in the art would therefore have recognized the advantage of providing for the selection of color of Madalo in Brown et al and Pollard, which comprises a label, depending on the desired efficiency of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for the selection of the color in Brown et al and Pollard in order to obtain a label which is efficient as taught by Madalo. Therefore, one of ordinary skill in the art would have recognized the utility of varying the color to obtain the desired efficiency. Therefore, the efficiency would be readily determined by through routine optimization of the color by one having ordinary skill in the art depending on the desired use of the end product as taught by Madalo.

It therefore would be obvious for one of ordinary skill in the art to vary the color, and thererore visual effect, in order to obtain the desired efficiency, since the efficiency would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end result as shown by Madalo

5. Claims 11 – 12 and 40 – 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al (U.S. Patent No. 3,417,175) in view of Pollard (U.S. Patent No. 3,728,143) and further in view of Lee (U.S. Patent No. 5,066,580).

Brown et al and Pollard disclose an article comprising xanthene as discussed above. With regard to Claims 11 – 12 and 40 – 41, Brown et al and Pollard fail to

disclose xanthene having a quantum yield of 0.9 or greater. However, Lee teaches that xanthene has a quantum yield of 0.93 (column 1, line 24). A quantum yield of greater than 0.9 or greater is therefore inherent to Brown et al and Pollard.

ANSWERS TO APPLICANT'S ARGUMENTS

6. Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claims 1 – 3, 5 – 6, 8 – 10, 13 – 16, 18 – 19, 21 – 23, 30 – 33, 35 – 36 and 38 – 39 as being unpatentable over Kozak et al (U.S. Patent No. 5,660,497) in view of Cornell et al (U.S. Patent No. 3,873,390) and Spohr (European Patent No. 1,059,237), of record on page 2 of the previous Action, have been considered and have been found to be persuasive. The rejection is therefore withdrawn. The new rejections above are directed to amended Claims 1 – 23, 28 – 41 and 78 – 80.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marc Patterson 6/12/06
Marc A. Patterson, PhD.
Primary Examiner
Art Unit 1772